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|--|-------------|----------------------|--------------------------------|------------------|
| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.            | CONFIRMATION NO. |
| 09/990,770   | 11/21/2001  | Melody Vos           | 5253-04200                     | 1825             |
| 29855 7590 02/27/2007<br>WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI,<br>L.L.P.<br>20333 SH 249<br>SUITE 600<br>HOUSTON, TX 77070 |             |                      | EXAMINER<br>ABEL JALIL, NEVEEN |                  |
|  |             |                      | ART UNIT                       | PAPER NUMBER     |
|  |             |                      | 2165                           |                  |
| SHORTENED STATUTORY PERIOD OF RESPONSE   |             | MAIL DATE            | DELIVERY MODE                  |                  |
| 3 MONTHS   |             | 02/27/2007           | PAPER                          |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                   |              |  |
|------------------------------|-------------------|--------------|--|
| <b>Office Action Summary</b> | Application No.   | Applicant(s) |  |
|                              | 09/990,770        | VOS ET AL.   |  |
|                              | Examiner          | Art Unit     |  |
|                              | Neveen Abel-Jalil | 2165         |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 December 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6, 8-10, 12-19, 21, 23-25, 27-34, 36, 38-40, and 42-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8-10, 12-19, 21, 23-25, 27-34, 36, 38-40, and 42-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### Remarks

1. The Amendment filed on December 1, 2006 has been received and entered. Claims 7, 11, 22, 26, 37, and 41 have been cancelled. Therefore, claims 1-4, 6, 8-10, 12-19, 21, 23-25, 27-34, 36, 38-40, and 42-45 and are now pending.
2. Applicant's Amendment has overcome the previous rejections under 35 USC 101.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1- 4, 6, 8-10, 12-19, 21, 23-25, 27-34, 36, 38-40, and 42-45 are rejected under 35 U.S.C. 102(a) as being anticipated by Fangzhe Chang & Vijay Karamcheti. Automatic Configuration and Run-Time Adaptation of Distributed Applications. IEEE 2000. (hereon in Change et al.)

As to claims 1, 16, and 31, Change et al. discloses

associating management criteria with the database to manage database objects (See page 13, paragraphs 3-6);

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collection statistics relating to the operation of the database (See page 14, wherein “QoS metrics” are statistics, also see page 15, paragraph 2); and

determining characteristics of the database objects based on the collected statistics (See page 16, paragraph 4, also see page 17, paragraphs 1-3);

determining actions to be performed on one or more database to modify the one or more database objects based on the management criteria and the determined characteristics of the database objects (See page 12, paragraph 1);

modifying the one or more database objects by performing the actions on the database objects (See page 12, paragraph 3);

monitoring results of modifying the database objects (See page 12, paragraph 2); and

reconfiguring the management criteria associated with the database based on the results of modifying the database objects (See page 11, abstract, also see page 12, paragraph 8).

As to claims 2, 17, and 32, Change et al. discloses automatically determining a schedule to perform the actions on the database objects, wherein the performing the actions on the database objects comprises performing the actions on the database objects based on the schedule (See page 13, paragraph 10).

As to claims 3, 18, and 33, Change et al. discloses wherein the performing the actions on the database objects based on the schedule comprises automatically performing the actions on the database objects based on the schedule (See page 13, paragraph 10).

As to claims 4, 19, and 34, Change et al. discloses confirming the performing the actions on the database objects (See page 14, paragraph 2, wherein “performing an action” reads on “adaptation” taking place or moving to next execution).

As to claims 6, 21, and 36, Change et al. discloses wherein the determining the characteristics of the database objects comprises automatically determining the characteristics of the database objects (See page 13, paragraph 4, also see page 13, paragraph 10).

As to claims 8, 23, and 38, Change et al. discloses wherein the determining the actions to be performed on the database objects based on the characteristics of the database objects comprises automatically determining the actions to be performed on the database objects based on the characteristics of the database objects (See page 17, paragraphs 3-4).

As to claims 9, 24, and 39, Change et al. discloses wherein the statistics comprise object-level statistics (See page 14, paragraph 1).

As to claims 10, 25, and 40, Change et al. discloses wherein the statistics comprise activity-level statistics (See page 14, paragraph 1).

As to claims 12, 27, and 42, Change et al. discloses wherein the determining the characteristics of the database objects comprises determining the characteristics of the database objects using one or more policies in the management criteria (See page 14, paragraph 5, also see

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page 17, paragraph 3).

As to claims 13, 28, and 43, Change et al. discloses wherein the determining the characteristics of the database objects comprises determining the characteristics of the database objects using one or more definitions in the management criteria (See page 16, paragraph 4).

As to claims 14, 29, and 44, Change et al. discloses customizing the one or more definitions in the management criteria (See page 17, section 5.2. wherein “customizing” reads on “interest to the user”).

As to claims 15, 30, and 45, Change et al. discloses customizing the one or more policies in the management criteria (See page 12, paragraph 1, also see page 13, paragraphs 4-6).

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-4, 6, 8-10, 12-19, 21, 23-25, 27-34, 36, 38-40, and 42-45 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Blattmann-Bleile et al. (U.S. Patent No. 5,884,311) teaches dynamically configuring a relational database.

Dumarot et al. (U.S. Patent No. 6,059,842) teaches optimizing computer software and hardware.

Pugh et al. (U.S. Patent No. 6,834,290 B1) teaches cost effective organization plan for database.

Louis Bradbard. Introduction to Domino performance tuning. Level: Introductory. 01 Sep. 2000. IBM website. Pgs. 1-8.

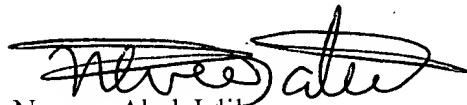
Chapter 4: Overview of Diagnostic Tools. Oracle Website copyright 1997-retrieved 2/7/2007.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Niveen Abel-Jalil', with a stylized flourish at the end.

Neveen Abel-Jalil  
February 20, 2006